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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,863	08/28/2003	Takashi Ohzeki	0505-1216P	6367
2292	7590	01/07/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				NOVOSAD, CHRISTOPHER J
		ART UNIT		PAPER NUMBER
		3671		

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/649,863	OHZEKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher J. Novosad	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 28 August 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 12-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 12-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 09/971,027.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 0.                    6) Other: \_\_\_\_\_

## **DETAILED ACTION**

Claims 1-11 have been canceled.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, lines 2 (two occurrences) and 5, recitation "grating-like" renders the claims indefinite because the claims includes elements not actually disclosed (those encompassed by "-like"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Russo.

With respect to claim 12, Russo shows a beach cleaner 1 for recovering waste comprising:

a grating-like portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) for scooping up waste as the beach cleaner 1 is moved, the grating-like portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) being inclined from a front portion (right side of Figs. 1 and 2) towards a rear portion (left side of Figs. 1 and 2) for positioning the front portion (right side of Figs. 1 and 2) at a lower position (right side of Figs. 1 and 2) relative to the rear portion (left side of Figs. 1 and 2); and a reticulate portion 61 formed behind the grating-like portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2), the reticulate portion 61 including a front portion 71 and a rear portion 69 wherein the rear portion 69 is inclined relative to the front portion 71 for positioning the rear portion 69 of the reticulate portion 61 at a location that is lower relative to the front portion 71 when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a horizontal position (not shown) for holding waste.

As to claim 13, reticulate portion 61 includes a frame (darker line, unnumbered, in Figs. 1 and 2; or member 5 in Figs. 1 and 2) and a chamber (unnumbered) having a lower wall 69, two upwardly projecting side walls 63,65 and a rear wall 69 when the beach cleaner 1 is turned from the vertical position shown in Figs. 1 and 2 to a horizontal position (not shown), at least the lower wall 69 including openings (unnumbered) therein for enabling sand to return by gravity to the beach.

Regarding claim 14, the lower wall 69 includes a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping waste in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

With respect to claim 15 the lower wall 69, the two upwardly projecting side walls 63,65 and the rear wall 67 include a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping wastes in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

Alternatively, with respect to claim 12, Russo alternatively shows a beach cleaner 1 for recovering waste comprising:

a grating-like portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) for scooping up waste as the beach cleaner 1 is moved, the grating-like portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2) being inclined from a front portion (right side of Figs. 1 and 2) towards a rear portion (left side of Figs. 1 and 2) for positioning the front portion (right side of Figs. 1 and 2) at a lower position (right side of Figs. 1 and 2) relative to the rear portion (left side of Figs. 1 and 2); and a reticulate portion 61 formed behind the grating-like portion 6,7,9,11,13,19,21,23,25,27,31 (Fig. 2), the reticulate portion 61 including a front portion 69 or 67 and a rear portion 71 wherein the rear portion 71 is inclined relative to the front portion 69 or 67 for positioning the rear portion 71 of the reticulate portion 61 at a location that is lower relative to the front portion 69 or 67 when the beach cleaner 1 is in the position shown in Figs. 1 and 2.

Alternatively, as to claim 13, reticulate portion 61 includes a frame (darker line, unnumbered, in Figs. 1 and 2; or member 5 in Figs. 1 and 2) and a chamber (unnumbered) having a lower wall 71, two upwardly projecting side walls 63,65 and a rear wall 69 when the beach cleaner 1 is in the position shown in Figs. 1 and 2, at least the lower wall 71 including openings (unnumbered) therein for enabling sand to return by gravity to the beach.

Alternatively, regarding claim 14, the lower wall 71 includes a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping waste in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

Alternatively, with respect to claim 15 the lower wall 71, the two upwardly projecting side walls 63,65 and the rear wall 69 include a plurality of rods (unnumbered) arranged in a side-by-side relationship for trapping wastes in the chamber (unnumbered) for discharge while enabling sand to return by gravity to the beach.

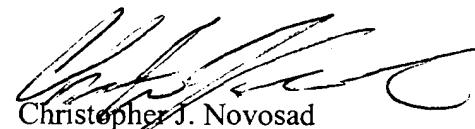
***Allowable Subject Matter***

Claims 16-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 703-308-2246. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Christopher J. Novosad  
Primary Examiner  
Art Unit 3671

December 31, 2003